

No. 132060

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court
	)	of Illinois, Fourth Judicial District,
Plaintiff-Appellee,	)	No. 4-24-1021.
	)	
	)	There on Appeal from the Circuit
v.	)	Court for the Tenth Judicial
	)	Circuit, Peoria County, Illinois,
	)	No. 21 CF 274.
	)	
STYLES STUCKEY,	)	The Honorable
	)	Paul P. Gilfillan,
Defendant-Appellant.	)	Judge Presiding.

**BRIEF OF PLAINTIFF-APPELLEE
PEOPLE OF THE STATE OF ILLINOIS**

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NATURE OF THE CASE

Defendant pleaded guilty to aggravated vehicular hijacking and was sentenced to 28 years in prison. Defendant appeals the appellate court's judgment affirming his sentence. No issue is raised on the pleadings.

ISSUES PRESENTED

I. Whether defendant waived his sentencing and ineffective assistance of plea counsel claims and cannot argue ineffective assistance of post-plea counsel to circumvent Supreme Court Rule 604(d)'s waiver provision.

II. Alternatively, whether post-plea counsel provided effective assistance by declining to present a meritless claim of ineffective assistance of plea counsel.

JURISDICTION

The Court allowed leave to appeal on September 24, 2025, and has jurisdiction under Supreme Court Rules 315 and 612(b).

STATEMENT OF FACTS

I. Presentencing Proceedings

One morning in May 2021, defendant and his codefendant, Antonio Monroe, Jr., stole 67-year-old Vickie Hall's car at gunpoint. R128-30.¹

¹ "Def. Br." and "A" refer to defendant's brief and appendix. "C" and "R" refer to the common law record and report of proceedings. "PLA" refers to defendant's petition for leave to appeal. "Peo. AC Br." and "Def. AC Reply Br." refer to the People's opening brief and defendant's reply brief in the appellate court.

Defendant was charged with unlawful possession of a motor vehicle, aggravated unlawful use of a weapon, vehicular hijacking, and aggravated vehicular hijacking, C20-23, 29-32; the last charge alleged that defendant was armed with a firearm during the offense (and therefore would require a 15-year sentencing enhancement if defendant were convicted), C20, 29; R7-8.

During presentencing proceedings, Judge Lyons, who presided over defendant's case until December 2023, *see* R20-237, heard the underlying facts supporting the charges. Hall, who lived up the street from defendant, R30-31, went to her car, which was parked outside, R128. She put her purse and keys in her car, then went to check her mail. *Id.* As she was checking her mail, a white car pulled up and two men wearing ski masks got out. R32-33, 128. When Hall tried to stop them from getting into her car, one of the men, who wore "very identifiable jeans," R32-33, pointed a gun at her and threatened to kill her if she did not get back, R33, 128. Then the two men drove off in her car and the white car followed. R128.

Hall's car was later found in an alley. R128-29. Video footage from a nearby camera showed the car pull into the alley shortly after it was stolen, then showed defendant, Monroe, and two women walk down the alley. R129. Video footage from a nearby grocery store then showed defendant (wearing jeans with a distinctive white stripe down the side, R32-33) remove a trash bag from the garbage can outside the store and place a gun at the bottom of the can. R129-30. After he replaced the bag, defendant went inside the

store; when police entered, he attempted to evade arrest by removing his jacket and giving it to one of the women, who hid it in her car. R130. Police later recovered a loaded handgun from the garbage can. R33-34.

On the morning of defendant's trial in November 2021, defendant listed Monroe as his sole witness, R111, 121-22, based on a handwritten statement, purportedly written by Monroe (who had already pleaded guilty, R132-33), in which Monroe had "inculcated himself in an attempt to exculpate [defendant]," R131. Before jury selection, R123, upon learning that Monroe would invoke his Fifth Amendment right against self-incrimination if called to testify, R132, defendant pleaded guilty, R135.

Pursuant to the plea agreement, defendant would plead guilty to a newly filed aggravated vehicular hijacking charge, which alleged that he committed vehicular hijacking against a person over 60 years old. R123-24, 135; C116. In exchange, the prosecution would dismiss the original four charges, including the charge that carried the 15-year firearm enhancement. R124-28. The trial court received a factual basis for the new charge, R128-31, and accepted the plea, R135.

The trial court advised defendant that his crime carried a prison sentence of between 6 and 30 years, R136, and ordered a presentence investigation report (PSI), R133. The court explained that the PSI was an opportunity for the court to learn about defendant, including his "schooling"

and “ups and downs,” and that defendant had the right to review and contribute to the PSI. R133-34.

Before the sentencing hearing, defendant moved to withdraw his guilty plea because Monroe had changed his mind and would testify that defendant “wasn’t a lookout” and Monroe “was the person who got out [of] the car” and “was giving [defendant] a ride.” R145-46; C134. In January 2022, the trial court denied the motion, noting that Hall was defendant’s neighbor and defendant had the gun, and proceeded to sentencing. R138, 147.

II. Sentencing

At the sentencing hearing, the trial court considered the PSI, Hall’s victim impact statement, testimony from defendant’s mother, defendant’s statement in allocution, and the arguments of the parties.

A. Presentence investigation report

The trial court twice asked the parties if they had any additions, corrections, or modifications to the PSI, R141, 147, which had been filed five days earlier, C384; R138. The prosecution had none. R141, 147. Plea counsel responded, “No, we don’t have any additions or corrections,” R147, and “We found no mistakes in [the PSI], so it’s fine with us,” R141.

The PSI was prepared when defendant was 20 years old, C384-85, and provided information about his background.² Attached to the PSI were

² The PSI initially appears at C135-209, but pages are missing from two attachments, *see* C145-77 (including only odd pages of attachments). The

(1) defendant's records from Peoria Public Schools, C391-458; *see also* A7-70; (2) a questionnaire completed by defendant's mother, C459-63; (3) letters from defendant's family members, C464-71; (4) defendant's hospital records for a prior gunshot wound, C472-86; and (5) Hall's victim impact questionnaire and statement, C487-90.

Regarding defendant's family background, the PSI recounted defendant's report that his biological father was in prison for most of defendant's life, and that defendant was raised primarily by his mother and her boyfriend, who was defendant's father figure until he passed away about six years earlier. C388. Defendant's sisters both submitted letters describing defendant as supportive and respected, C389, 467-69; his older sister also explained that their mother "always made sure that [they] had everything [they] needed, plus more," C468. Defendant's aunts submitted letters, C464, 470-71, describing defendant as "a loving caring young man," C470, with "a heart of gold," C464, who was "always willing to help anyone," C471. One aunt explained that the death of defendant's only father figure "had a big impact on [defendant]," but defendant's mother always provided a "nice, loving place to live, food [and] clothes." C464. Another aunt similarly noted that defendant came "from a strong background where he was always around

copy of the PSI attached to post-plea counsel's amended motion to reconsider sentence is complete, *see* C380-490, and portions are reproduced in the appendix to defendant's brief, A7-70. This brief cites to the complete PSI, and where appropriate, the portions reproduced in defendant's appendix.

positive people” who “work[ed] and provided for each other” and were “always there” for the kids. C471. She and defendant’s mother believed that defendant was “at the wrong place, at the wrong time.” C466, 471.

Defendant has two children with different mothers. C389. He was present in his children’s lives and watched them when their mothers were unable to do so. *Id.* But defendant struggled to provide for his children because he did not have a stable job and relied on his own mother for shelter and necessities. C388-89.

About five months before he hijacked Hall’s car, defendant was shot in the neck and required surgery. C390. Defendant used to drink alcohol on special occasions and smoke marijuana daily as a stress reliever; he denied using other drugs. *Id.* Defendant denied taking medication for any condition or illness. *Id.*

Regarding defendant’s academic background, he completed high school through the 11th grade, where he was not in special education classes, but was unable to “finish out his senior year due to being incarcerated.” C387. Defendant wrestled and enjoyed art and computer science classes. C389, 471. Although he reported that he “did not have problems throughout school,” C387, the PSI investigator noted that “disciplinary records show many minor infractions[and] detentions and in/out of school suspensions,” and that “[m]any of the disciplinary actions were the result of problems with those placed into an authoritative position within the school system including bus

drivers, teachers and administrators,” *id.* Defendant’s “most recent suspension” was in February 2019 (when he was in 11th grade, C393-94), following his involvement in a brawl among 20 students in the high school parking lot. C387. After that incident, defendant was “sent to the Knoxville Center for Student Success as result of the numerous infractions received” at his prior high school. *Id.* Defendant’s mother attributed “his problems in school” to ADHD. C390.

Defendant’s criminal history included a juvenile delinquency adjudication and two prior criminal convictions. In September 2019 (when defendant was 2 months shy of his 18th birthday), he was adjudicated delinquent for resisting a peace officer and placed on probation. C386. But just two months later, the juvenile court found that defendant was not complying with his probation conditions and sentenced him to 15 days in juvenile detention. *Id.* Before defendant was remanded to serve that sentence in June 2020, he committed crimes that resulted in convictions for unlawful possession of a controlled substance (a class 4 felony) and domestic battery against the mother of one of his children (a class A misdemeanor). C386-87, 389. While on probation for those offenses, defendant hijacked Hall’s car. C385-87.

Defendant blamed the hijacking on Monroe. C390. He regretted “being a part of [it]” but took no responsibility for his actions. *Id.* Defendant denied ever being in a gang, but the PSI noted that “[a]vailable information

indicate[d] that defendant would associate with gang members who are involved in gun violence.” C390. While in pretrial custody, defendant fought with another detainee and was disciplined for his conduct. *Id.*

B. Victim impact statement, testimony, and allocution

Hall provided a statement explaining how defendant’s actions had “greatly impacted [her] life.” C487. She struggled with anxiety and fear, especially because defendant knew where she lived and she feared he or someone he knew would try to hurt her or her son. *Id.* Hall had installed new locks on her house and bought a video-recording device for her doorbell. *Id.* When she went out, Hall carried pepper spray; she was afraid of strangers, more cautious of her surroundings, and afraid after dark. C487-89. At night, she had trouble sleeping due to “continued images of a gun being pointed at [her],” and she kept a gun within arm’s reach of her bed. C487.

At defendant’s request, plea counsel called defendant’s mother, R147, who testified that defendant was a “good kid” and caused her “[n]o trouble at all” as a child, R149. She denied that defendant ever “got in trouble before this incident,” *id.*, or had any “scrapes with the law,” R150. Before the crime, defendant was going to school and working with a plumber on weekends. *Id.*

For his part, defendant stated in allocution, “I shouldn’t get punished for something I didn’t do.” R160.

C. Arguments and decision

The prosecutor sought a 30-year sentence based on the nature and seriousness of the offense, defendant's "prior criminal history starting as a juvenile," and his use of a gun during the offense, which was a statutory aggravating factor. R151-54. The prosecutor noted that defendant's mother's and family members' statements that he was a good kid who never made any trouble were refuted by the "64[-]page disciplinary report from [his school]." R153-54. That report showed "acts of physical aggression toward students and faculty, insubordination towards faculty"; "multiple occasions [where defendant] disrupted class to the point where students were asking him to be quiet so that at least they could learn because he clearly had no interest in getting an education, period"; and that defendant "struck students," "kicked a teacher," and bullied others. R153-54. The prosecutor emphasized that defendant took no responsibility for his actions in this case and blamed others. R154. The prosecutor concluded that defendant "is simply not a good candidate for any sort of rehabilitation because he doesn't think he did anything wrong" and despite "all the chances that he got [in school]," he has shown that he "doesn't care" and is "going to do what he wants." *Id.*

Defendant interrupted the prosecutor's argument, despite plea counsel repeatedly telling him not to talk. *Id.* For example, while the prosecutor summarized his school disciplinary record, defendant asked, "Are you done making me look bad?" R153. And during the prosecutor's argument that

defendant did not “think he did anything wrong,” defendant interjected, “I didn’t.” *Id.*

Plea counsel asked the court to sentence defendant to a term less than 24 years, the sentence Monroe had received after pleading guilty. R154-55. Counsel argued that defendant was less culpable than Monroe because Monroe pointed the gun at Hall and defendant merely “jump[ed] in the car in the passenger seat” and “dispos[ed] of the gun.” R155.

During plea counsel’s argument, the trial court observed that it was defendant who had the gun, but that, regardless, defendant was “all in” on the hijacking and not “just going along for the ride.” R157. The court also noted that it was defendant who lived “just a few houses down the street from [Hall]” and “stuffed [the gun] under the trash in a trash container.” R159.

After considering the PSI and other evidence, the parties’ arguments, defendant’s statement in allocution, the statutory aggravating and mitigating factors, defendant’s “history and character” and young age, and “the circumstances and nature of the offense,” R160-62; *see also* R164, the trial court sentenced defendant to 28 years in prison, R171. The court emphasized that defendant’s crime was “terrible.” R168. Defendant had approached “a citizen who was doing nothing wrong” and “had nothing to do with [defendant]” and “put a gun to her face.” R162. As a result, he “made [Hall] think she’s always got to be looking over her shoulder now.” R169. The court rejected defendant’s attempt to minimize his role in the offense and blame

Monroe, finding that defendant was the “leader” and “right in the thick of it,” R170-71, and held the gun (or at the very least “did more than [his] share to present it, prepare it, have it, and supply it”), R169-70.

The trial court also noted defendant’s social and behavioral history. The court acknowledged that defendant had lost his only father figure and that his family spoke well of him. R166. But the court gave little weight to those statements given that defendant “appeared to be nicer [at home] than [he] ever appeared to be in school,” *id.*, where his lengthy disciplinary record showed a “very different” side, R166.

For example, the trial court noted recent entries from the school record showing that defendant thrice “threatened to beat the bus driver’s ass” if the driver “didn’t get him to school on time.” R167; A62 (entry from Oct. 10, 2018, when defendant was nearly 17 years old). In addition, after a school aide asked defendant to stop bothering another student, defendant “proceeded to pretend to hit [that] student.” R167; *see* A68 (entry from Mar. 20, 2019, when defendant was 17 years old). When the aide told defendant that he “needed to stop hitting females,” defendant responded, “She ain’t a female. She’s a nigger.” R167; A68. The court found this statement both “unnerving” and revealing. R167. The court concluded that defendant “had no intention of being a compliant student,” R166, and that his criminal history showed his offenses escalating “from tiny to small to bigger” in a short time frame, R164-65, 168, 170-71.

The court highlighted that defendant showed no remorse or contrition, and instead blamed Monroe for the crime. R169-71. In addition, throughout presentencing proceedings, defendant had “not really one time at any hearing . . . ever presented himself as a person that took anything seriously.” R170. The court noted, “Right now . . . [defendant] is leaning back in his chair, sort of looking at the ceiling, rolling his eyes,” wanting to “be out of [t]here.” *Id.* Emphasizing the seriousness of defendant’s crime and his criminal history, the court concluded that a 28-year sentence was appropriate. R170-71.

III. First Motion to Reconsider Sentence

Defendant moved to reconsider his sentence, arguing that his 28-year sentence was disparate to Monroe’s 24-year sentence because Monroe was the one who pointed the gun at Hall. C217-19. The trial court denied the motion, R197-98, emphasizing the seriousness of defendant’s crime, that he had the gun, and that he failed to take responsibility even as an accomplice, R177-80, 182-83, 193-95. The court noted that it had sentenced defendant to less than the maximum term because he had pleaded guilty. R193-94.

The trial court further noted that it had considered defendant’s “landscape; [his] life; [his] productivity; the goods and bads; and the highs and lows.” R195. Defendant did not finish school, pay child support, or make a written statement. *Id.* The court acknowledged that defendant’s school disciplinary record included numerous infractions and cited some of them, R195-96, but explained that it was “not punishing [defendant] or trying to

give [him] consequences for bad behavior then,” but “trying to learn who [he] [was], and where [he] c[a]me from, and how [he] [was] where [he] [was].”

R197. From the records, the court determined that defendant had wanted to show everyone that he “was in charge” and “was going to do it his way.” *Id.*

After again reiterating the seriousness of defendant’s offense, the trial court denied the motion to reconsider. R197. In its written order denying the motion, the court “strongly reaffirm[ed] [the] cause and reasoning for [defendant’s] sentence.” C242.

IV. First Appeal and Remand

The appellate court reversed and remanded for compliance with Supreme Court Rule 604(d)’s certification requirement and an opportunity for defendant to file new postjudgment motions. C277-80; R201. On remand, post-plea counsel filed a Rule 604(d) certificate and stood on the previously filed motions to withdraw defendant’s guilty plea and reconsider the sentence. R220-21. The trial court denied both motions. R234-35.

V. Second Appeal and Second Motion to Reconsider Sentence

The appellate court again reversed and remanded for compliance with Rule 604(d)’s certification requirement and an opportunity for defendant to file new postjudgment motions. C365. On remand, defendant’s case was assigned to Judge Gilfillan following Judge Lyons’s retirement. C366; R269. Defendant also discharged his prior attorney and proceeded with the public defender. R245-47.

New post-plea counsel filed a Rule 604(d) certificate and an amended motion to reconsider sentence. C378-565. As relevant here, the motion argued that the trial court abused its discretion by considering defendant's school disciplinary records because doing so ignored defendant's "age, maturity, and ability for rehabilitation." A73. Defendant conceded that "[t]he Third District has approved of disciplinary records at sentencing hearings," A71, but argued that consideration of "a defendant's school disciplinary history as evidence of his bad character" is nonetheless improper because "it fails to consider that, when compared to adults, juveniles are more immature and irresponsible, more vulnerable to negative influences and pressures from family and peers, and 'more malleable than adults—their characters are less fixed and their malfeasance is less indicative of irretrievable depravity.'" A72 (quoting *People v. Ferguson*, 2021 IL App (3d) 200041, ¶ 33 (McDade, J., dissenting)).

At the hearing on the motion, post-plea counsel agreed it was "well established that disciplinary records can be used at sentencing hearings," but echoed the *Ferguson* dissent in arguing that such records should not be considered at sentencing. R263-64. Counsel further argued that the trial court erred by considering defendant's record because the reports of misconduct were hearsay and occurred when defendant was very young. R265-66.

The trial court denied the motion. R276-77. It recognized that consideration of school disciplinary records has long “been part and parcel of PSIs” and sentencing and viewed the *Ferguson* dissent as guidance on how to weigh such records. R264-65. As to defendant’s hearsay argument, the court found that it went to the weight of the evidence, explaining that the thirdhand nature of any information should be taken into account because it reduces the reliability of the information, R266-67, but “summaries of statements directly from teachers as to insubordinate or violent actions . . . carry slightly more weight,” R267. In defendant’s case, the court found, it had not overemphasized his school disciplinary records and instead had considered them “appropriately as authorized by the Third District despite the dissenting opinion.” R276-77.

VI. Appellate Court’s Decision

On appeal, defendant claimed, in relevant part, that (1) the trial court erred in considering his school disciplinary records; (2) plea counsel was ineffective for not objecting to the court’s consideration of those records; and (3) post-plea counsel was ineffective for not arguing the ineffectiveness of plea counsel. A79, ¶ 2. The appellate court rejected defendant’s claims and affirmed. A100-01, ¶¶ 63-66.

Specifically, the appellate court held that defendant waived his challenge to the trial court’s consideration of the school disciplinary records because plea counsel affirmatively acquiesced to their consideration at sentencing. A91, ¶¶ 37-38. The appellate court further held that defendant

could not overcome his waiver via his ineffective assistance claims because the trial court properly considered the school records, A97, ¶ 55; A100, ¶¶ 60-61, 63, which were admissible at sentencing as both relevant and reliable evidence, A97-98, ¶¶ 55-60. The records were relevant to “defendant’s difficulty with structure and authority over almost the entirety of his school career” and “[b]ecause defendant was a 19-year-old offender, his behavior in school was not too remote in time to be irrelevant to appropriate sentencing considerations, such as his character and rehabilitative potential.” A97, ¶ 55. The records were also relevant to defendant’s education, which the PSI was statutorily required to address, and “to the overall picture of his . . . history.” *Id.* Moreover, the school records were sufficiently reliable to be considered at sentencing, A98-100, ¶¶ 57-60, where “defendant affirmatively asserted through [plea] counsel that the PSI had ‘no mistakes,’ and he has never challenged the factual accuracy of any portion of” the school disciplinary records, A100, ¶ 60; *see* A98-99, ¶¶ 57-59.

Finally, the appellate court held that the school records were not “a significant factor in the [trial] court’s sentencing decision.” A100, ¶ 61. Rather, “[w]hen the court’s comments are viewed as a whole, it [wa]s apparent that it placed far greater weight and significance on the nature and circumstances of the offense, defendant’s behavior before the court, and defendant’s expressed lack of accountability.” *Id.*

STANDARDS OF REVIEW

The construction of Supreme Court Rules presents a question of law that the Court reviews de novo. *People v. Walls*, 2022 IL 127965, ¶ 16. The Court also reviews ineffective assistance of counsel claims de novo. *People v. Yankaway*, 2025 IL 130207, ¶ 59.

ARGUMENT

Defendant did not object to the inclusion of his school disciplinary records in his PSI and acquiesced to their consideration at sentencing, so he waived his claim that the sentencing court erred by considering the records. *See infra* § I.A. Defendant's attempt to circumvent that waiver by claiming that plea counsel was ineffective for not objecting fails because he waived *that* claim by not raising it in the motion to reconsider sentence required under Supreme Court Rule 604(d). *See infra* § I.B. And defendant's attempt to circumvent his waiver under Rule 604(d) by claiming that post-plea counsel was ineffective for not raising plea-counsel's ineffectiveness in the Rule 604(d) motion fails because the ineffective assistance of post-plea counsel claim is not cognizable on direct appeal. *See infra* § I.C. The Court may therefore affirm the appellate court's judgment based on defendant's waivers.

Alternatively, post-plea counsel was not ineffective for failing to raise a meritless claim of ineffective assistance of plea counsel. Plea counsel's decision not to object was neither deficient nor prejudicial, because any

objection would have been meritless under established Illinois law. *See infra*

§ II. Accordingly, the appellate court properly rejected defendant's claims.

I. Defendant Waived His Underlying Sentencing and Ineffective Assistance of Plea Counsel Claims and Cannot Argue Ineffective Assistance of Post-Plea Counsel to Circumvent His Waiver.

A. Defendant waived his sentencing claim.

Defendant waived his claim that the trial court erred at sentencing when it considered his school disciplinary records, which were included in his PSI, by acquiescing to that consideration. With limited exceptions not relevant here, a sentencing court is statutorily required to consider a defendant's PSI, *see* 730 ILCS 5/5-3-1; *In re Johnathan T.*, 2022 IL 127222, ¶¶ 49-50, and the defendant must receive notice of the PSI before sentencing, *see* 730 ILCS 5/5-3-4(b)(2). If a defendant, having received the requisite notice, then fails to raise "[a]ny claimed deficiency or inaccuracy within a presentence report" to the sentencing court, that failure "results in waiver of the issue on review." *People v. Williams*, 149 Ill. 2d 467, 493 (1992) (collecting cases)); *see* Def. Br. 40 (quoting *Williams*). After all, as *Williams* explained, "[n]o purpose would be served by giving the parties notice of the presentence reports at least three days prior to the imposition of sentence if we were to permit them to later raise objections to the presentence reports for the first time on appeal." 149 Ill. 2d at 495 (citing 730 ILCS 5/5-3-4(b)(2) (1987)); *see* 730 ILCS 5/5-3-4(b)(2) (2021) (same three-day requirement).

Here, the statutorily required PSI, which included the challenged disciplinary records as an attachment, C391-458, was filed five days before the sentencing hearing, C384; R138. Not only did defendant not object to the trial court considering those records at sentencing, he affirmatively acquiesced to their consideration when, through plea counsel, he assured the court that he “d[id]n’t have any additions or corrections” to the PSI, R147, and “found no mistakes in it, so it[wa]s fine with [him],” R141. Defendant thus waived his claim that the court erred by considering his disciplinary records, which were attached to the PSI. *See, e.g., Williams*, 149 Ill. 2d at 493-95 (defendants waived claims that courts erred in relying on information in PSI by failing to object that such information was insufficiently reliable).

B. Defendant waived his claim that plea counsel was ineffective.

As defendant concedes, Def. Br. 39-40, he also waived his claim that plea counsel was ineffective for not objecting to consideration of the disciplinary records by not including that claim in his amended motion to reconsider sentence. Under Rule 604(d), a defendant cannot appeal from a judgment entered upon a plea of guilty without first “fil[ing] in the trial court a motion to reconsider the sentence, if only the sentence is being challenged.” Ill. S. Ct. R. 604(d). And any issue not raised in a motion to reconsider sentence “is ‘waived’ on appeal.” *People v. Ratliff*, 2024 IL 129356, ¶ 26; *see* Ill. S. Ct. R. 604(d) (“Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence . . . shall be deemed waived.”). Because

defendant did not raise a claim that plea counsel was ineffective in his amended motion to reconsider, that claim is waived.

C. Defendant’s claim that post-plea counsel was ineffective is not cognizable on direct appeal, forfeited, and/or meritless.

1. Defendant’s claim that post-plea counsel was ineffective for not complying with Rule 604(d)’s motion requirement is not cognizable on direct appeal.

Defendant cannot circumvent this waiver by alleging that post-plea counsel was ineffective for not complying with Rule 604(d). That claim is not cognizable on direct appeal, and the “appropriate remedy” for defendant’s claim lies in the Post-Conviction Hearing Act, 725 ILCS 5/122-1 *et seq.* *People v. Wilk*, 124 Ill. 2d 93, 107 (1988).

Allowing defendant to avoid his waiver by claiming on direct appeal that post-plea counsel was ineffective for not complying with Rule 604(d)’s motion requirement would render the motion requirement a nullity and contravene Rule 604(d)’s purposes. This Court enacted Rule 604(d)’s motion requirement (and accompanying waiver provision) to reduce the number of appeals taken from guilty pleas and promote the finality of guilty plea judgments. *Ratliff*, 2024 IL 129356, ¶ 27; *Walls*, 2022 IL 127965, ¶ 25; *Wilk*, 124 Ill. 2d at 106-07. The Court had found that “many of the errors complained of [in guilty plea appeals] could and undoubtedly would be easily and readily corrected, if called to the attention of the trial court.” *Wilk*, 124 Ill. 2d at 106. It designed Rule 604(d) “to eliminate needless trips to the

appellate court and to give the trial court an opportunity to consider the alleged errors and to make a record for the appellate court to consider on review in cases where defendant's claim is disallowed." *Id.*

Accordingly, Rule 604(d) requires a defendant to (1) file a post-plea motion in the trial court or lose his right to appellate review altogether and (2) include all claims of error in that motion or lose his right to appellate review of any omitted claims. *Ratliff*, 2024 IL 129356, ¶¶ 27-28; see *People v. Wallace*, 143 Ill.2d 59, 60 (1991); *Wilk*, 124 Ill. 2d at 106-07. This requirement prevents "open-ended" appeals by narrowing review to only those "errors considered significant" in trial proceedings and preventing appellate counsel from "comb[ing] the record for every semblance of error and rais[ing] issues on appeal whether or not [post-plea] counsel considered them of any importance." *People v. Sophanavong*, 2020 IL 124337, ¶ 25 (quotation marks omitted), *overruled on other grounds by Ratliff*, 2024 IL 129356, ¶ 23 n.2. It also ensures that "the trial judge who accepted the plea and imposed sentence [is] given the opportunity to hear the allegations of improprieties that took place outside the official proceedings and *dehors* the record, but nevertheless were unwittingly given sanction in the courtroom." *Wilk*, 124 Ill. 2d at 104. This opportunity is important, for "[t]rial judges are in a superior position to consider alleged deficiencies regarding guilty pleas and sentences imposed thereon." *People v. Foster*, 171 Ill. 2d 469, 471 (1996). Compliance with Rule 604(d) ensures that these superior factfinders can

conduct any necessary factfinding “when witnesses are still available and memories are fresh.” *Wilk*, 124 Ill. 2d at 104; *see Walls*, 2022 IL 127965, ¶ 25.

In short, Rule 604(d)’s motion requirement limits appellate review in guilty plea cases to only those issues that the defendant presented in his post-plea motion. If the requisite motion is not filed, then no issues will be considered on appeal. If the requisite motion is filed, then the appeal is limited to the issues presented therein.

Enforcement of Rule 604(d)’s motion requirement is relaxed in only one circumstance: when a defendant was not admonished of Rule 604(d)’s requirements. *Foster*, 171 Ill. 2d at 473-74; *see People v. Jamison*, 181 Ill. 2d 24, 29-30 (1998). Otherwise, this Court has repeatedly rejected attempts to create “exceptions to the rule” that “circumvent and defeat [its] purpose.” *Wilk*, 124 Ill. 2d at 106; *see also, e.g., People v. Fitzgibbon*, 184 Ill. 2d 320, 326-27 (1998).

For instance, in *Wilk*, the Court abrogated decisions holding that post-plea counsel was ineffective for not filing a Rule 604(d) motion and remanding for further post-plea proceedings rather than dismissing the appeal. 124 Ill. 2d at 103. The Court recognized that these decisions stemmed from a desire to protect defendants from losing appellate review of claims for post-judgment relief due to “the incompetence of counsel.” *Id.* at 105. But the Court made clear that such concerns do not justify relaxing

Rule 604(d)'s motion requirement. *Id.* at 106-07. “[T]he rules adopted by this [C]ourt concerning criminal defendants and guilty pleas are in fact rules of procedure and not suggestions. It is incumbent upon counsel and courts alike to follow them.” *Id.* at 103. Addressing the appellate court’s concerns, the Court explained that a defendant deprived of review of his claims on direct appeal is not without a remedy. *Id.* at 105-06. “The appropriate remedy” for a defendant whose attorney failed to comply with Rule 604(d), the Court added, “lies in our Post-Conviction Hearing Act.” *Id.* at 107; *accord In re William M.*, 206 Ill. 2d 595, 599-600 (2003); *Foster*, 171 Ill. 2d at 471. There, a defendant may claim that post-plea counsel’s failure to comply with Rule 604(d) denied him his “sixth amendment right to counsel.” *Wilk*, 124 Ill. 2d at 107. But a defendant cannot raise this ineffectiveness claim on direct review where he was properly admonished about Rule 604(d)’s motion requirement and nevertheless failed to comply with it. *See id.* at 108-09.

Consistent with this precedent, defendant cannot argue here that post-plea counsel was ineffective for not complying with Rule 604(d)’s motion requirement. Defendant was properly admonished that “any issue or claim of error not raised in the [post-plea] motion would be deemed waived.” R172. Because he did not allege that plea counsel was ineffective in his amended Rule 604(d) motion, that claim was waived and cannot be considered on direct appeal.

Allowing defendant to now argue that post-plea counsel was ineffective for not raising plea counsel's ineffectiveness — i.e., for not complying with Rule 604(d) — would render Rule 604(d) a nullity. It would no longer prevent open-ended appeals by narrowing review only to claims raised in the requisite motion, for a defendant could obtain review of any issues omitted from the post-plea motion by arguing on appeal that post-plea counsel was ineffective for omitting them. *See Sophanavong*, 2020 IL 124337, ¶ 25 (“Rule 604(d)’s requirement that issues be raised in a [post-plea] motion” would have no force if a defendant could simply raise omitted issues later). Appellate counsel could once again comb the record for potential issues that post-plea counsel might have raised, then obtain review of the omitted issues through the lens of *Strickland v. Washington*’s prejudice prong. 466 U.S. 668 (1984) (setting forth standard for ineffective assistance claims). Once again, reviewing courts would be required to address in the first instance errors that “could and undoubtedly would be easily and readily corrected, if called to the attention of the trial court.” *Wilk*, 124 Ill. 2d at 106.

Defendant’s assumption that he may raise this claim on direct appeal is unfounded. *See* Def. Br. 40-41. In the appellate court, he cited only *People v. Hammons*, 2018 IL App (4th) 160385, and *People v. Stevenson*, 2020 IL App (4th) 180143. *See* Def. AC Reply Br. 5-6. But the former is inapposite and the latter unpersuasive. *Hammons* did not concern Rule 604(d) at all; the defendant there challenged the conditions of probation rather than the

sentence of probation itself. 2018 IL App (4th) 160385, ¶¶ 13-14 (applying *In re J.W.*, 204 Ill. 2d 50 (2003)). Thus, *Hammons* addressed the defendant’s claim of ineffective assistance under the “common law” rule allowing “a defendant to raise a claim of ineffective assistance for the first time on appeal.” *Id.* ¶ 14. *Stevenson*, in turn, erred by relying on *Hammons* as justification to entertain a defendant’s claim that post-plea counsel was ineffective for omitting an issue from the Rule 604(d) motion. 2020 IL App (4th) 180143, ¶ 11. Because *Hammons* did not address the question in the context of Rule 604(d), neither *Hammon*’s inapposite holding nor *Stephenson*’s misunderstanding of that holding provides persuasive support for defendant’s position.

Defendant’s reliance on *Hammons* and *Stevenson* is further misplaced because both decisions rest on the incorrect premise that the word “waived” in Rule 604(d) means “forfeited,” with the result that a defendant may obtain appellate review of claims not raised in a post-plea motion through either the plain-error doctrine or the lens of ineffective assistance of post-plea counsel. *See Stevenson*, 2020 IL App (4th) 180143, ¶ 11; *Hammons*, 2018 IL App (4th) 160385, ¶ 12. But, as this Court reaffirmed in *Ratliff*, any claim not raised in a post-plea motion is waived, not forfeited, and so may not be reviewed on direct appeal even for plain error. 2024 IL 129356, ¶¶ 22-28. *Hammons* and *Stevenson* are therefore unpersuasive.

For its part, the appellate court considered defendant’s claim based on the proposition that ineffective assistance of post-plea counsel “is generally a cognizable claim following a postplea hearing and the denial of postplea motions.” A93, ¶ 42 (citing *People v. Brown*, 2023 IL App (4th) 220400, ¶¶ 31-32, *aff’d*, 2024 IL 129585³). But neither the appellate court below nor *Brown* considered whether or why *all* ineffective assistance of post-plea counsel claims would be cognizable on direct review. *See Brown*, 2023 IL App (4th) 220400, ¶ 31 (stating generally, based on decisions addressing appeals from jury verdicts, that invited error doctrine bars review of waived issues, “absent ineffective assistance of counsel”). For instance, a claim that post-plea counsel provided ineffective assistance may be cognizable on direct appeal if it does not stem from a failure to comply with Rule 604(d)’s requirements or circumvent Rule 604(d)’s purposes, e.g., a claim that post-plea counsel was ineffective for not eliciting certain testimony at a post-plea hearing. *See, e.g., People v. Pena-Romero*, 2012 IL App (4th) 110780, ¶ 20. But direct review of claims premised on post-plea counsel’s failure to comply with Rule 604(d)’s motion requirement would undermine the rule itself.

³ The appellate court relied solely on the appellate court’s decision in *Brown* and did not cite this Court’s subsequent decision affirming it. Because neither party before this Court in *Brown* raised the propriety of the appellate court reviewing the defendant’s claim of ineffective assistance of post-plea counsel, this Court did not consider the question. *See* 2024 IL 129585, ¶ 26.

2. Defendant's claim that post-plea counsel failed to comply with Rule 604(d)'s certification requirement is forfeited and meritless.

Defendant's suggestion, in a single paragraph, that post-plea counsel did not strictly comply with Rule 604(d)'s certification requirement (rather than its motion requirement) is forfeited and meritless. *See* Def. Br. 40. To begin, defendant forfeited this claim by not presenting it in his petition for leave to appeal (PLA). *See People v. McCarty*, 223 Ill. 2d 109, 122 (2006) ("failure to raise an issue in a petition for leave to appeal results in the forfeiture of that issue before this [C]ourt").

Defendant's PLA presented a single issue — whether the sentencing court erred by considering his school disciplinary records, PLA 1-2 — and devoted 14 of the 16 pages of argument to that issue, *id.* at 4-20. In the final two pages, defendant argued that plea counsel was ineffective for not objecting to the disciplinary records and post-plea counsel was ineffective for not raising plea counsel's ineffectiveness in defendant's amended motion to reconsider. *Id.* at 18-20. Defendant never renewed his argument from the appellate court that plea counsel's facially compliant certificate nevertheless did not comply with Rule 604(d). *See* A91, ¶ 38. Accordingly, defendant forfeited his challenge to post-plea counsel's Rule 604(d) certificate.

Forfeiture aside, defendant's claim is meritless. He concedes that post-plea counsel's certificate tracks Rule 604(d)'s language and is therefore facially compliant. Def. Br. 40. That concession defeats his claim that post-plea counsel's certificate did not strictly comply with Rule 604(d).

As the Court’s precedent establishes, counsel must strictly comply with the certification requirement of Rule 604(d), *Brown*, 2024 IL 129595, ¶ 48, with any failure requiring remand to the trial court for the filing of a compliant certificate, the opportunity for counsel to file a new motion, and a new motion hearing, *People v. Lindsay*, 239 Ill. 2d 522, 531 (2011). However, strict compliance requires only that the certificate include “each element required by the rule.” *People v. Gorss*, 2022 IL 126464, ¶ 29; *see* Ill. S. Ct. R. 604(d) (certificate must “substantially adopt[]” form provided in Article VI Forms Appendix); Ill. S. Ct. R. 604(d), Art. VI Forms Appendix (using language from Rule 604(d)). Where counsel has provided such a certificate, the court has evidence that post-plea counsel fulfilled her duties, obviating any need to speculate as to whether counsel in fact did so or look beyond the certificate to check counsel’s work. *See Gorss*, 2022 IL 126464, ¶¶ 26-27; *People v. Shirley*, 181 Ill. 2d 359, 371 (1998). Thus, “every requirement of Rule 604(d) [i]s fully complied with” when post-plea counsel “file[s] the requisite certificate.” *Lindsay*, 239 Ill. 2d at 531; *see also Gorss*, 2022 IL 126464, ¶ 29 (certificate that includes “each element required by the rule . . . strictly compl[ies] with its terms”); *In re H.L.*, 2015 IL 118529, ¶ 25 (same, where certificate “meets the content requirements of the rule”); *Fitzgibbon*, 184 Ill. 2d at 324, 326-27 (same, where certificate uses Rule 604(d)’s words). Accordingly, post-plea counsel’s certificate here strictly complied with Rule 604(d) because it indisputably tracked the rule’s language.

Despite Rule 604(d)'s plain language and the Court's clear precedent, defendant, echoing a line of appellate precedent, posits that a facially compliant certificate may nevertheless be rebutted on direct appeal if "the *proceedings* below were [not] in strict compliance with Rule 604(d)." *People v. Bridges*, 2017 IL App (2d) 150718, ¶¶ 6, 8-9 & n.1 (emphasis added); *see* Def. Br. 40 (citing *Bridges*). But defendant does not claim that there was some error in the proceedings mandated by Rule 604(d). *See, e.g.*, Ill. S. Ct. R. 604(d) (pro se litigant must be appointed counsel and furnished transcripts). And, in any event, when it comes to post-plea counsel's compliance with Rule 604(d), the question is not whether the *proceedings* below strictly complied with Rule 604(d); it is whether counsel's *certificate* strictly complied with the rule. *See generally H.L.*, 2015 IL 118529, ¶¶ 11-25.

Indeed, looking beyond the strictly compliant certificate would inject ambiguity and complexity into the "simple, straightforward and mandatory procedure" that the Court designed to ensure that post-plea counsel performed her duties and the rights of defendants are protected. *People v. Janes*, 158 Ill. 2d 27, 35 (1994) (emphasis and citation omitted); *see also Gorss*, 2022 IL 126464, ¶ 27. Second-guessing compliant certificates would "merely generate[] disputes on review . . . over whether the record shows that there has been [strict] compliance," inviting speculation and undermining the rule's purpose. *Janes*, 158 Ill. 2d at 35; *see Gorss*, 2022 IL 126464, ¶ 27. The Court should therefore reject defendant's request to

overrule its precedent holding that the filing of a strictly compliant certificate is both necessary and sufficient to comply the rule.

If anything, defendant's claim that post-plea counsel violated Rule 604(d)'s certification requirement because she did not *actually* fulfill her obligations under Rule 604(d), despite her compliant certificate, Def. Br. 40, merely rephrases his claim that post-plea counsel was ineffective for not complying with Rule 604(d)'s motion requirement, which claim is noncognizable on direct appeal. *See supra* § I.C.1. Moreover, allowing a defendant to recast an ineffective assistance claim as a lack of strict compliance would contravene Rule 604(d)'s purposes. If a defendant argues that counsel was ineffective, he needs to overcome the *Strickland* presumption that counsel made a reasonable strategic decision not to amend a motion in a particular way, possibly based on counsel's unknown extra-record investigations or conversations with the defendant. *See* 466 U.S. at 690-91. But under defendant's view, if he instead argues that counsel did not comply with Rule 604(d)'s certification requirement, then he need not satisfy *Strickland*. *Cf., e.g., Bridges*, 2017 IL App (2d) 150718, ¶ 6 n.1 (*Strickland* does not apply when deciding whether "proceedings below" strictly complied with Rule 604(d)). The appellate court would be free to rely on its own judgment, conclude that counsel's "failure" to state her strategy on the record meant that counsel's complaint certificate was false, and remand for further proceedings, as the remedy for counsel's failure to strictly comply with Rule

604(d) is automatic remand without any analysis of whether that failure prejudiced the defendant. *See H.L.*, 2015 IL 118529, ¶ 18. “There is no reason why a defendant who challenges a guilty plea (or a sentence imposed as a result of a guilty plea) should be able to gain this advantage simply by recasting any claim of attorney error as a violation of . . . Rule 604(d)’s strict compliance standard.” *People v. Tejada-Soto*, 2012 IL App (2d) 110188, ¶ 17. Accordingly, as the Court has repeatedly held, strict compliance requires only that post-plea counsel file “a certificate that meets the content requirements of the rule.” *H.L.*, 2015 IL 118529, ¶ 25.

The Court’s strict-compliance rule does not leave defendants without remedy. A defendant who believes that post-plea counsel did not sufficiently consult with him, examine the reports of proceedings, and/or adequately present his claims, *see* Ill. S. Ct. R. 604(d), may raise that failure as an ineffective assistance claim in a postconviction petition. *See supra* § I.C.1.

Defendant is incorrect that the Court’s precedent interpreting Supreme Court Rule 651(c) warrants a different result. Def. Br. 41 (citing *People v. Addison*, 2023 IL 127119). Rule 651(c), which governs counsel’s performance in postconviction proceedings, “serve[s] fundamentally distinct purposes” than Rule 604(d). *People v. Smith*, 2020 IL App (1st) 181220, ¶¶ 21-23, *aff’d*, 2022 IL 126940; *see People v. Smith*, 2022 IL 126940, ¶¶ 34-35 (Rules 604(d) and 651(c) have “significantly different contexts and standards”). Unlike Rule 604(d), Rule 651(c) requires “[t]he *record*” to

“contain a showing, which *may* be made by the certificate of petitioner’s attorney, that the attorney” has performed certain duties. Ill. S. Ct. R. 651(c) (emphasis added). Thus, Rule 651(c) may be satisfied with any “affirmative showing in th[e] record [that] demonstrates substantive compliance with the rule,” even where no certificate is filed. *People v. Williams*, 5 Ill. App. 3d 56, 59 (1st Dist. 1972); see *Smith*, 2022 IL 126940, ¶¶ 14-15; see also, e.g., *People v. Lander*, 215 Ill. 2d 577, 585 (2005) (no substantial compliance where “counsel did not file a certificate showing compliance with Rule 651(c) and the record d[id] not demonstrate counsel fulfilled the required duties” (emphasis added)).

In addition, a postconviction petitioner’s right to counsel is statutory, and counsel’s obligations are limited to those listed in Rule 651(c). See *Smith*, 2022 IL 126940, ¶¶ 13, 28-33. By contrast, a criminal defendant’s right to post-plea counsel is constitutional, so post-plea counsel’s obligations are not limited to the duties safeguarded by Rule 604(d) — consulting with the defendant, examining the reports of proceedings, and/or adequately presenting the defendant’s claims. See *Smith*, 2022 IL App (1st) 181220, ¶ 22; *People v. Patterson*, 2022 IL App (4th) 210225-U, ¶ 34-36. Accordingly, the postconviction procedures the Court requires under Rule 651(c) have never been imported into post-plea procedures under Rule 604(d), and defendant offers no reason why they should be here, where he has an available remedy under the Post-Conviction Hearing Act.

* * *

In summary, the only claim that defendant raised in his amended motion to reconsider sentence and that he argues on appeal — that the trial court erred by considering his school disciplinary records at sentencing — is waived because defendant agreed that the trial court could consider those records. His claim that plea counsel was ineffective for not raising the alleged sentencing error is waived under Rule 604(d) because he did not raise it in his post-plea motion. And defendant cannot circumvent that waiver by arguing that post-plea counsel was ineffective for not complying with Rule 604(d). Accordingly, the Court should affirm the appellate court's judgment.

II. Alternatively, Post-Plea Counsel Provided Effective Assistance.

Alternatively, defendant's claim that post-plea counsel was ineffective is meritless because defendant fails to establish both that counsel performed deficiently and that he was prejudiced as a result. *See Strickland*, 466 U.S. at 687. Post-plea counsel's decision not to include the underlying ineffective assistance claim in defendant's amended motion to reconsider sentence was neither deficient nor prejudicial because that claim — that plea counsel was ineffective for not objecting to the trial court's consideration of his school disciplinary records — is meritless.

A. Plea counsel reasonably declined to object to the trial court's consideration of defendant's school records.

Defendant fails to overcome the strong presumption that plea counsel rendered constitutionally adequate representation by declining to object to

the trial court's consideration of defendant's school disciplinary records at sentencing. Judicial scrutiny of counsel's performance is "highly deferential," and "counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Strickland*, 466 U.S. at 689-90. Because the Sixth Amendment requires "competent, not perfect representation," and "[m]istakes in trial strategy or tactics or in judgment do not of themselves render the representation incompetent," *People v. West*, 187 Ill. 2d 418, 432 (1999) (cleaned up), counsel's decisions on matters of strategy are generally unassailable, *Strickland*, 466 U.S. at 690.

Such strategic decisions include "decisions such as what matters to object to and when to object." *People v. Pecoraro*, 144 Ill. 2d 1, 13 (1991). When evaluating counsel's decision not to object, courts strive "to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." *Strickland*, 466 U.S. at 689. Counsel's assessment of the merits of an objection depends on the state of the law at the time of counsel's decision. *People v. English*, 2013 IL 112890, ¶ 34. Counsel therefore is not deficient for declining to press an issue that would be meritless under binding precedent. *See People v. Webb*, 2023 IL 128957, ¶ 34; *People v. Bailey*, 232 Ill. 2d 285, 299 (2009); accord *People v. Williams*, 2024 IL 127304, ¶ 22 (counsel not deficient "for failing to make or pursue what

would have been a meritless motion or objection”). Nor is counsel deficient for not predicting a change in existing law, *English*, 2013 IL 112890, ¶ 34, or “fail[ing] to conceive, research, and raise every novel argument that has a chance to prevail,” *United States v. Babcock*, 40 F.4th 1172, 1177 (10th Cir. 2022); see *Engle v. Isaac*, 456 U.S. 107, 134 (1982) (counsel not required to “recognize and raise every conceivable constitutional claim”); *People v. Hoskins*, 2025 IL App (4th) 240991, ¶ 91 (Doherty, J., specially concurring) (“numerous state and federal courts have concluded that counsel’s failure to advance novel legal theories or arguments does not constitute ineffective performance” (quoting *Ledbetter v. Comm’r of Corr.*, 880 A. 2d 160, 167 (Conn. 2005), which collects cases)).

1. Plea counsel reasonably declined to make an objection that was meritless under binding appellate court precedent.

Defendant cannot show that plea counsel performed deficiently by not objecting to the PSI’s inclusion of defendant’s school disciplinary records because binding precedent held that it was proper both for the PSI to include school disciplinary records and for the trial court to consider them. In September 2021 — about four months before defendant’s sentencing hearing — the appellate court rejected the very claim defendant faults counsel for not raising here. In *Ferguson*, the 23-year-old offender claimed that the sentencing court improperly considered his school disciplinary records in light of *Miller v. Alabama*, 567 U.S. 460 (2012). 2021 IL App (3d) 200041, ¶¶ 6-8, 17-18. *Ferguson* held, over a dissent, that the “student disciplinary

records were properly included in the PSI and properly considered by the court.” *Id.* ¶ 18. Given this binding adverse precedent, plea counsel was not deficient for declining to object to the trial court’s consideration of defendant’s school disciplinary records. *See Webb*, 2023 IL 128957, ¶ 34 (counsel not deficient for not making argument barred by existing precedent).

Nor was counsel deficient for declining to seek a change in the law based on *Miller* and the *Ferguson* dissent, as defendant argues. Def. Br. 42. The trial court had no authority to change the law, for it was bound to follow *Ferguson*. *See People v. Lighthart*, 2023 IL 128398, ¶ 75 (appellate court decisions are binding on circuit court until this Court says otherwise). But even if the trial court had such authority, counsel would not have been deficient for declining to advocate for the change in law. *See Webb*, 2023 IL 128957, ¶ 34 (counsel not deficient for failing to seek change in existing law); *Bailey*, 232 Ill. 2d at 299 (same); *Ledbetter*, 880 A.2d at 167 (same, collecting cases); *see also Engle*, 456 U.S. at 131-34 (counsel not required to raise novel claim even if tools necessary to construct that claim existed).

Indeed, although defendant focuses on the trial court’s observation that the *Ferguson* dissent was notable, *see* Def. Br. 42, he disregards the court’s more salient observations that the *Ferguson* majority had upheld consideration of the disciplinary records, R276-77, and that the view expressed by the dissent reflected a departure from established law, R264. Plea counsel’s “[r]epresentation based on the law prevailing at the time of

[his decision] [wa]s adequate,” *English*, 2013 IL 112890, ¶ 34 (citation omitted), for, as post-plea counsel correctly conceded, “[i]t’s well established that disciplinary records can be used at sentencing hearings,” R263-64; *see also* A71.

Defendant’s reliance on federal appellate precedent for the proposition that counsel performs deficiently by not advocating to change existing law, Def. Br. 43, is misplaced. *Bridges v. United States* held that plea counsel was at least potentially deficient by not arguing that a sentencing enhancement was inapplicable, given a recent amendment to the applicable federal sentencing guideline and favorable but nonbinding appellate precedent interpreting that amendment. 991 F.3d 793, 804 (7th Cir. 2021). In that context, the Seventh Circuit explained that counsel is “generally not obligated to anticipate changes in the law,” but there may be some circumstances where counsel must make “an argument that is sufficiently foreshadowed in existing case law.” *Id.* But this Court has never endorsed this foreshadowing exception, likely because it is in tension with United States Supreme Court precedent. *See Smith v. Murray*, 477 U.S. 527, 536-37 (1986); *Strickland*, 466 U.S. at 689.

Moreover, the exception does not apply here. Since *Bridges*, the Seventh Circuit has limited the foreshadowing exception. *See Elion v. United States*, 155 F.4th 889, 899-902 (7th Cir. 2025). In *Elion*, the court “emphatically” reaffirmed that it “ha[s] repeatedly stated that counsel need

not forecast changes in the law.” *Id.* at 889-900. The court explained that, given *Strickland*’s requirement that counsel’s performance be assessed under the law in effect at the time, the foreshadowing exception is “narrow and rarely applies.” *Id.* at 902. The court then added that the exception applies only in extraordinary circumstances where, like in *Bridges*, there is no binding precedent on an issue and clearly favorable out-of-jurisdiction precedent, *id.* at 901, or where courts in the jurisdiction have expressly, clearly, and forcefully predicted the proposed change and there is no uncertainty on the issue, *id.* at 902. Neither of these extraordinary circumstances is present here, where *Ferguson* bound the trial court to rule against defendant.

Defendant’s argument fares no better under *United States v. Carthorne*, 878 F.3d 458, 465-66 (4th Cir. 2017) (cited at Def. Br. 43). There, in the course of distinguishing the plain-error and ineffective assistance standards, the Fourth Circuit noted, with citation to *Ramirez v. United States*, 799 F.3d 845, 855 (7th Cir. 2015), and without discussion, that “the ineffective assistance standard may require that counsel raise material issues even in the absence of decisive precedent.” *Carthorne*, 878 F.3d at 465-66. In *Ramirez*, the Seventh Circuit held that counsel was deficient for not objecting to the sentencing court’s consideration of the defendant’s two prior convictions under the guidelines. 799 F.3d at 855. Although the Supreme Court had issued a decision that rendered those convictions “suspect” under

the guidelines, counsel did not try to obtain the necessary records to make the objection because it would have been difficult and time consuming. *Id.* *Ramirez* held that “[t]his lack of desire to uncover the truth was deficient.” *Id.* Here, by contrast, there is neither “decisive” binding precedent in defendant’s favor, nor any evidence that counsel declined to object due to laziness. Thus, *Carthorne* is similarly inapposite.

In sum, defendant fails to demonstrate that plea counsel was deficient for not raising an objection foreclosed by binding precedent.

2. An objection to the school records was meritless, so plea counsel reasonably declined to make it.

Ferguson aside, plea counsel reasonably declined to object to the trial court’s consideration of defendant’s student disciplinary records because any such objection would have been meritless.

a. A sentencing court’s inquiry into the defendant’s background is largely unlimited in the kind and source of information considered.

Consistent with the policy practiced “before and since the American colonies became a nation,” this Court has repeatedly held that sentencing courts have “broad discretionary power to consider various sources and types of information” when determining the appropriate sentence within the statutory sentencing range. *Williams*, 149 Ill. 2d at 490 (quotation marks omitted); *see also id.* at 486-87, 489-91 (collecting cases). Illinois law therefore applies “the fundamental sentencing principle that a judge may appropriately conduct an inquiry broad in scope, largely unlimited either as

to the kind of information he may consider, or the source from which it may come.” *People v. La Pointe*, 88 Ill. 2d 482, 496 (1981) (quoting *Roberts v. United States*, 445 U.S. 552, 556 (1980), and *Williams v. New York*, 337 U.S. 241, 247 (1949) (quotation marks omitted)).

To allow for this broad inquiry, this Court recognized “[l]ong ago . . . that the rules of evidence that govern the guilt or innocence phase of a trial are not applicable at sentencing.” *Williams*, 149 Ill. 2d at 490; *see* Ill. R. Evid. 1101(b)(3) (rules of evidence inapplicable at sentencing). Unlike a factfinder at trial, a sentencer “is not confined to the narrow issue of guilt,” *La Pointe*, 88 Ill. 2d at 497 (quoting *Williams*, 337 U.S. at 247), and must instead determine the punishment that fits both the crime and offender, *id.* at 496. In doing so, “possession of the fullest information possible concerning the defendant’s life and characteristics” is “[h]ighly relevant — if not essential.” *Id.* at 497 (quoting *Williams*, 337 U.S. at 246-47). But “most of the information” necessary to “guide [the sentencer] in the intelligent imposition of sentences would be unavailable if information were restricted to that given in open court by witnesses subject to cross-examination.” *Id.* (quoting *Williams*, 337 U.S. at 247) (brackets added). Therefore, it is “all the more necessary that a sentencing judge not be denied an opportunity to obtain pertinent information by a requirement of rigid adherence to restrictive rules of evidence properly applicable to the trial.” *Id.* (quoting *Williams*, 337 U.S. at 247).

Applying these principles, this Court has held that “the only requirement for the admissibility of evidence” at sentencing is “that the evidence be relevant and reliable,” with “determination of relevance and reliability rest[ing] within the sound discretion of the trial court.” *People v. Mertz*, 218 Ill. 2d 1, 57 (2005) (citation omitted). The purpose of the sentencing hearing is to ensure that the court exercises its discretion in an informed manner. *People v. Jones*, 94 Ill. 2d 275, 284-88 (1982). Thus, virtually all information about an offender’s background — including information about his general moral character, criminal history, prior uncharged misconduct, rehabilitative potential, propensities, mentality, habits, demeanor, education, social environment, abnormal or subnormal tendencies, and motives that influenced his conduct — is relevant. *See People v. Clark*, 2023 IL 127273, ¶ 92; *People v. Fern*, 189 Ill. 2d 48, 53, 55 (1999); *People v. McWilliams*, 348 Ill. 333, 336 (1932).

This pertinent information may be gathered from myriad formal and informal sources. *See People v. Holman*, 2017 IL 120655, ¶ 44 (court “may search anywhere” for evidence relevant to sentencing (quoting *McWilliams*, 348 Ill. at 336)), *overruled on other grounds by People v. Wilson*, 2023 IL 127666, ¶ 41; *see, e.g., Williams*, 337 U.S. at 246 (“Out-of-court affidavits have been used frequently, and of course in the smaller communities sentencing judges naturally have in mind their knowledge of the personalities and backgrounds of convicted offenders.”); *Williams*, 149 Ill. 2d

at 486-87, 490-91 (collecting cases where courts learned of defendant's criminal history through various formal and informal sources). A sentencing court is free to consider any relevant evidence as long as it bears sufficient indicia of reliability, *People v. Williams*, 181 Ill. 2d 297, 331-32 (1998); *People v. Foster*, 119 Ill. 2d 69, 98-99 (1987) — i.e., is not “inherently unbelievable,” *People v. Whitehead*, 116 Ill. 2d 425, 454-55 (1987).

Accordingly, the PSI, although based primarily on hearsay and defendant's unverified statements, “is generally a reliable source” for a defendant's criminal history, *Williams*, 149 Ill. 2d at 491, and other background information about the defendant due to “its statutorily mandated requirements,” *People v. Jones*, 2016 IL 119391, ¶ 40. A probation officer prepares the PSI “consistent with the directives of the statute,” *Williams*, 149 Ill. 2d at 488, which requires the PSI to set forth, among other things, the defendant's “history of delinquency and criminality, physical and mental history and condition, family situation and background, economic status, education, occupation, and personal habits,” 730 ILCS 5/5-3-2(a)(1). After the defendant has an opportunity to review the accuracy of the PSI's information regarding his own background, *see* 730 ILCS 5/5-3-4(b)(2), the sentencing court must consider the PSI to ensure that it “ha[s] all necessary information concerning the defendant before sentence is imposed.” *People v. Youngbey*, 82 Ill. 2d 556, 564-65 (1980); *see* 730 ILCS 5/5-3-2(a); *id.* § 5/5-4-1. In short, the

information provided in the PSI is presumptively relevant and reliable, and the sentencing court may consider all of it.

b. Defendant's school disciplinary records were both relevant and reliable.

Given this settled precedent, plea counsel reasonably declined to object to the trial court's consideration of defendant's school disciplinary records, which was both relevant and reliable for sentencing purposes.

i. The records were relevant.

The school disciplinary records were relevant to the trial court's determination of the appropriate sentence for defendant. "Consideration of a defendant's past conduct as indicative of his probable future behavior is an inevitable and not undesirable element of criminal sentencing: 'any sentencing authority must predict a convicted person's probable future conduct when it engages in the process of determining what punishment to impose.'" *Skipper v. South Carolina*, 476 U.S. 1, 5 (1986) (citation omitted); *People v. McNeal*, 175 Ill. 2d 335, 369 (1997) ("one duty of a sentencer is to predict a defendant's future behavior based upon his past behavior"). Thus, defendant's behavioral history — whether at home, in school, in juvenile detention, or in any other environment — was relevant to the court's sentencing determination. *See Sears v. Upton*, 561 U.S. 945, 948-49 (2010) (defendant's home life and school behavior are relevant "[e]nvironmental factors" at sentencing).

Moreover, the record of defendant's school behavior (and related parental involvement) is part of his social, family, and educational background — all topics that the legislature deemed so relevant as to require PSI coverage. *See* 730 ILCS 5/5-3-2(a)(1); *see also Operational Standards for Ill. Prob. & Ct. Serv.*, Admin. Off. of the Ill. Cts. (July 1996), at Appx. 7 (hereinafter “*Operational Standards*”), available at <https://www.probation.illinoiscourts.gov/field> (PSI “Education” section should include “any attendance or disciplinary problems”);⁴ *cf.* 705 ILCS 405/5-701 & 5-750(1)(D) (“any disciplinary incidents at school” are relevant as part of an offender’s “education” and must be included in a juvenile court equivalent to PSI). This information relates to defendant’s character, mentality, propensities, and habits, all of which are relevant at sentencing. *See supra* § II.A.2.a.

For instance, defendant’s record reveals behavior that contributed to his academic struggles, his “troubled history with structure and authority,” A97, ¶ 54, his inconsistent parental support, and his inability to comply with rules despite repeated interventions. *See generally* A7-70. Indeed, because defendant was only 19 years old when he committed his crime, his relatively recent school records provided the court “the fullest information possible concerning the defendant’s [short] life and characteristics.” *La Pointe*, 88 Ill. 2d at 497 (quoting *Williams*, 337 U.S. at 247).

⁴ The direct link to the document is https://drive.google.com/file/d/1wh5jumly_VnsB439J2bboUiKc-qx7qgG/view.

Defendant's contrary arguments are meritless. To start, defendant disregards that sentencing is a "process of evidentiary balancing," *Mertz*, 218 Ill. 2d at 54, so evidence of a defendant's background and character is relevant regardless of whether it is "consistent with' the statute on aggravating factors," Def. Br. 23. A court must "consider all matters reflecting upon the defendant's personality, propensities, purposes, tendencies, and indeed every aspect of his life relevant to the sentencing proceeding." *People v. Munson*, 171 Ill. 2d 158, 198 (1996) (quotation marks omitted). Thus, "the statutory aggravating factors are not exclusive," *People v. Helm*, 282 Ill. App. 3d 32, 35 (4th Dist. 1996); see 730 ILCS 5/5-5-3.2(a), and a court "may consider any relevant aggravating factors, statutory and nonstatutory, in the process of selecting" a sentence, *Munson*, 171 Ill. 2d at 198.⁵

Nor does the question of whether a school record is sufficiently relevant to be admitted at sentencing turn on whether, once admitted, it is viewed by the court as aggravating or mitigating. See Def. Br. 23-24.

⁵ Defendant misconstrues this Court's statement in *People v. Gray* that "the legislature has broad discretion to define offenses and prescribe aggravating factors and penalties for offenses," 2017 IL 120958, ¶ 59, when he argues that the judiciary may consider only non-statutory aggravating factors that are "consistent" with statutory aggravating factors. See Def. Br. 23. In context, *Gray* used the term "aggravating factors" to refer to facts that trigger statutory sentencing enhancements if proven, like the use of a firearm, see, e.g., *People v. Alejos*, 97 Ill. 2d 502, 505-06 (1983), or harm caused to a victim, see, e.g., *Gray*, 2017 IL 120958, ¶ 3, not the statutory aggravating factors that sentencing courts consider when deciding the appropriate sentence within the sentencing range. See generally *La Pointe*, 88 Ill. 2d at 500-01.

Evidence of a defendant's background is relevant because it provides insights into the defendant's character and history that aid the court in determining the appropriate sentence for that defendant, not because it is aggravating rather than mitigating (or vice versa). For instance, evidence of a defendant's troubled childhood or history of substance abuse is not irrelevant just because it may be viewed as "either aggravating or mitigating, depending on whether the individual [sentencer] finds that it evokes compassion or demonstrates possible future dangerousness." *Mertz*, 218 Ill. 2d at 83-84; see *People v. Ballard*, 206 Ill. 2d 151, 189-91 (2002) (discussing substance abuse); *People v. Montgomery*, 192 Ill. 2d 642, 673-74 (2000) (discussing troubled childhood). Likewise, "evidence of a defendant's intellectual disabilities" is not irrelevant just because it also "can present a two-edged sword at sentencing," where it "may diminish the defendant's blameworthiness for his crime, but at the same time, . . . may also establish the probability of future dangerousness." *Clark*, 2023 IL 127273, ¶¶ 77-78 (quotation marks omitted); accord *People v. Heider*, 231 Ill. 2d 1, 20-21 (2008) (cited at Def. Br. 23). Similarly, a defendant's school disciplinary history may be viewed as mitigating or aggravating. Compare, e.g., *Sears*, 561 U.S. at 948 (mitigating evidence included defendant's "struggle[s] in school" as shown by his "substantial behavior problems from a very young age"), with *Dunn v. Reeves*, 594 U.S. 731, 735, 740-41 (2021) ("numerous behavioral difficulties" during childhood may reflect diminished rehabilitative potential). Regardless of how the trial

court ultimately viewed defendant's disciplinary history, the history was relevant because it "provided the [court] with the most complete information possible regarding defendant's life and characteristics." *People v. Lego*, 116 Ill. 2d 323, 347 (1987).

Defendant is incorrect that *Miller v. Alabama*, which prohibits mandatory sentences of life without parole for juvenile homicide offenders under the Eighth Amendment, 567 U.S. at 465, barred the trial court from considering his school disciplinary records when exercising its sentencing discretion. *See* Def. Br. 34-35. *Miller* is wholly inapposite: defendant does not raise an Eighth Amendment claim; he was not a juvenile offender; and he did not receive a mandatory sentence of life without parole. *See People v. Spencer*, 2025 IL 130015, ¶¶ 27-40. And, in any event, *Miller* does not prohibit sentencing courts from considering defendants' school records.

Nor does *Miller's* reasoning suggest that courts must ignore a defendant's behavioral difficulties merely because he experienced them as a juvenile. *Miller* recognized that because juveniles are less mature than adults (and therefore generally less culpable for their offenses), they cannot be sentenced to life without parole without an individualized sentencing procedure that allows the sentencer to consider the juvenile's character and background. 567 U.S. at 470, 475-78, 483; *see Jones v. Mississippi*, 593 U.S. 98, 108-09, 115 & n.7, 120 (2021). But *Miller* did not suggest that, because

juveniles are not yet mature, nothing an adult offender did as a juvenile is relevant at sentencing.

Moreover, Illinois law recognized the mitigating qualities of youth and their significance at sentencing long before *Miller*, see *Clark*, 2023 IL 127273, ¶¶ 92-93; *Holman*, 2017 IL 120655, ¶ 44, and nevertheless allowed school disciplinary records to be considered at sentencing. See 705 ILCS 405/5-750(1)(D) (“any disciplinary incidents at school” relevant when sentencing a juvenile in juvenile court); 730 ILCS 5/5-5-3.2(a)(3) (any juvenile delinquency adjudications relevant to sentencing a juvenile or adult in criminal court); *Operational Standards*, *supra*, at Appx. 7 (“Education” section of PSI should include school disciplinary problems). The fact that an adult offender has likely matured since he was a child does not make evidence of his childhood experiences, behaviors, or criminal offenses irrelevant. So, the fact that defendant’s school disciplinary records document his behavioral issues while he was maturing does not render them any less relevant to his background and character than evidence of his other experiences, behaviors, or criminal offenses as a child. See *Sears*, 561 U.S. at 948-49.

At bottom, defendant’s arguments fail because they dispute the weight to be given his disciplinary records, not their relevance. See *generally* Def. Br. 24-38. But that is a question for the sentencing court. Just as a court must determine what weight, if any, to give juvenile delinquency adjudications, it must decide how much weight to give school disciplinary

records. For instance, defendant's arguments about the mitigating qualities of youth, *see* Def. Br. 34-37, causes of his behavioral issues, *see id.* at 34, minimal significance of his difficulties as a young child, *see id.* at 25, 34, and lack of documented infractions after March 2019, *id.* at 36-37,⁶ arguably weigh against giving his disciplinary history much weight. But they do not make the record of his background and character irrelevant. If defendant believed the trial court gave undue weight to certain parts of the record or improperly considered portions in aggravation, then his claim was that the court abused its discretion in doing so, not, as he claims now, that plea counsel was ineffective for not objecting to the inclusion of his school disciplinary records in the PSI. *See id.* at 39, 41.

ii. The records were reliable.

The school disciplinary records were also a reliable source of information about defendant's life and characteristics.⁷ *See, e.g., People v.*

⁶ Even if, as defendant asserts, the lack of entries after March 2019 suggests that defendant was "making some positive changes in his conduct at school," other evidence demonstrates that defendant was not maturing. Def. Br. 37. Defendant committed crimes in September 2019, January 2020, and May 2020. C386. And the COVID-19 pandemic began in March 2020, so it is unclear whether and to what extent defendant was present in school during the pandemic.

⁷ The People did not "concede" in the appellate court that the school records were unreliable, as defendant argues. Def. Br. 30. The People cited the relevance and reliability standard, argued that the records were properly included in the PSI and considered by the trial court, and noted that defendant did not challenge the records' accuracy. Peo. AC Br. 2-3. Even if the People's brief could be construed as omitting a reliability argument, that would not amount to forfeiture, much less rise to the level of a concession.

Perez, 148 Ill. 2d 168, 188-89 (1992) (defense counsel should have introduced defendant's school records in mitigation even though records also revealed that defendant was a troublemaker). School records have sufficient indicia of trustworthiness to be admitted as reliable evidence even at trial under various hearsay exceptions. *See Admissibility of School Records Under Hearsay Exceptions*, 57 A.L.R.4th 1111, § 2(a) ("The most widely used and well recognized exception for the admission of school records [at trial] is the business records exception."); *id.* (courts have also admitted school records at trial under public record and residual hearsay exceptions, and held that school records "could likely have been admissible in evidence under unspecified exceptions to the hearsay rule"); *see also* 2 McCormick on Evid. § 286 (9th ed.) ("hearsay exception for regularly kept records is justified on grounds of trustworthiness and necessity"; such records are reliable due to their typically "high degree of accuracy"); *see generally* 105 ILCS 10/2, 10/4 (requiring public schools to maintain certain student disciplinary records). Certainly, school records bear indicia of reliability like those of other sources that courts have recognized as sufficiently reliable for consideration at sentencing. *See, e.g., Williams*, 337 U.S. at 246, 251 (acceptable to consider

See People v. Johnson, 2026 IL 131337, ¶ 101 ("parties forfeit issues, not arguments"). Regardless, a reviewing court is not bound by a party's concession. *See People v. Nunez*, 236 Ill. 2d 488, 493 (2010). And because the appellate court found the records reliable, the People, as appellee, may raise any argument or basis to defend the correctness of that judgment (as well as the trial court's judgment). *See In re Veronica C.*, 239 Ill. 2d 134, 151 (2010).

out-of-court sources, including affidavits, sentencing judges' prior knowledge of defendant, and information collected by probation officer in PSI); *People v. Terrell*, 185 Ill. 2d 467, 507 (1998) (rejecting contention that "testimony, gleaned solely from a defendant's prison records," is inadmissible due to the "unreliable nature of these records"); *Williams*, 149 Ill. 2d at 486-87, 490-91 (collecting cases allowing for defendant's prior crimes to be introduced through various sources, including psychiatrist's report and prosecutor reading criminal record); *People v. Morgan*, 112 Ill. 2d 111, 143-44 (1986) (facts compiled during police officer's investigation into other crimes, which inculpated defendant in two unprosecuted shootings, reliable for sentencing); *People v. Skinner*, 2025 IL App (4th) 240689, ¶¶ 79-88 (collecting cases holding that courts may consider evidence from codefendants' trials, including codefendants' hearsay statements); *People v. Willis*, 361 Ill. App. 3d 527, 530-31 (4th Dist. 2005) (prison disciplinary record attached to PSI properly considered at sentencing); *Todd v. Schomig*, 283 F.3d 842, 853 (7th Cir. 2002) (employee witness permissibly testified to statements in defendant's employment records, which might have qualified as business records under hearsay rule, even though witness had no personal knowledge of statements and was not employed at business when statements recorded).

Indeed, school records are a common source of information for PSIs. *See, e.g., Presentence Investigations*, United States Courts, <https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/presentence->

investigations (in preparing PSI, probation officer “gathers documentation that can provide useful information for the court, such as court and school records”); *Operational Standards, supra*, at Appx. 7 (PSI should include school disciplinary problems). Because a probation officer’s summary of a school record is generally accepted as reliable, so, too, is the record itself. *See Jones*, 94 Ill. 2d at 287-88 (probation officer who prepared PSI permissibly testified to “background” information about the defendant that officer read in documents, including that his psychiatric report stated “that defendant ‘has aggressive tendencies, low frustration tolerance, high impulsivity, very poor delaying mechanism, and total inability to channel his aggression into constructive aspects of life’”).

Like his relevance arguments, defendant’s reliability arguments challenge the weight to be given his school record, not its admissibility. Defendant’s primary argument is that the school record is unreliable because it is hearsay and its contents are hearsay within hearsay. *See* Def. Br. 27-33. As discussed, however, school records are regularly admitted under various hearsay exceptions. *See supra* p. 50. No such exception was required here, as the rules of evidence do not apply at sentencing. But the entries appear either to have been prepared by a school employee based on information provided by school employees (not outsiders) or to memorialize defendant’s own statements, so they are not inadmissible hearsay. *See People v. McCullough*, 2015 IL App (2d) 121364, ¶ 121; Ill. R. Evid. 801(d)(2).

Regardless, defendant's complaints about hearsay within hearsay "go[] to the weight of the evidence and not its admissibility." *Williams*, 181 Ill. 2d at 331. Likewise, to the extent defendant disputes whether the school recordkeeper had personal knowledge of the events recorded, any "lack of personal knowledge by the maker may affect the weight afforded the evidence, but not its admissibility." *U.S. Bank Nat. Ass'n v. Avdic*, 2014 IL App (1st) 121759, ¶ 29; *see* 725 ILCS 5/115-5(a); Ill. S. Ct. R. 236(a); Ill. R. Evid. 803(6); *see, e.g., Van Steenburg v. Gen. Aviation, Inc.*, 243 Ill. App. 3d 299, 331-32 (1st Dist. 1993) (hearsay statement containing information received from "unnamed pilots" admissible).

Defendant's cited decisions do not warrant a different result. First, none of the cases concerns the admissibility of records that are not even inadmissible hearsay. Second, most of the decisions pre-date *Williams*, *see* Def. Br. 28-31, which held that hearsay is admissible at sentencing and the hearsay nature of the testimony goes to weight, not admissibility, 181 Ill. 2d at 331.

Finally, this Court has never adopted defendant's bright-line rule requiring corroboration or witness testimony. *See* Def. Br. 25-27. Rather, the Court has expressed a *preference* for corroboration or witness testimony where the State presents evidence of uncharged criminal conduct to show a defendant's propensity to commit crimes. *See People v. Jackson*, 149 Ill. 2d 540, 548 (1992) (evidence "*should* be presented by witnesses who can be

confronted and cross-examined”); *People v. Brock*, 2022 IL App (3d) 200430, ¶ 84 (this Court’s precedent does not “establish a bright-line rule” requiring witness testimony to accompany introduction of records of uncharged conduct). But hearsay evidence is admissible, regardless of corroboration or witness testimony, so long “there [i]s nothing inherently unbelievable about the information,” *Whitehead*, 116 Ill. 2d at 454-55, and the defendant has an opportunity to rebut or explain it. *See Williams*, 181 Ill. 2d at 332; *Foster*, 119 Ill. 2d at 98-99; *see, e.g., Terrell*, 185 Ill. 2d at 505-07 (court may learn of disciplinary infractions recorded in inmate’s prison file without testimony from each correctional officer who witnessed the infraction and prepared the disciplinary report); *People v. Kliner*, 185 Ill. 2d 81, 171-72 (1998) (court properly considered uncharged conduct contained in a “rap sheet”); *People v. Harris*, 375 Ill. App. 3d 398, 409-10 (3d Dist. 2007) (collecting cases holding that court may learn about defendant’s other criminal activity at sentencing from witnesses who testify about what others told them); *see also supra* pp. 50-51. Indeed, the Court has rejected defendant’s bright-line rule in the prison disciplinary context because it “would produce unnecessary hardship” where “the incidents occurred many years” earlier and “[l]ocating the various persons with personal knowledge of the violations is often not feasible, and sometimes impossible.” *People v. Fair*, 159 Ill. 2d 51, 90 (1994); *see also Williams*, 337 U.S. at 250-51. The same is true of school disciplinary records. *See Brock*, 2022 IL App (3d) 200430, ¶ 84.

Defendant is incorrect that his school records are inherently unreliable because studies show racial disparities in school disciplinary measures. *See* Def. Br. 37-39. As a threshold matter, defendant did not cite these materials in the trial court, and the appellate court therefore correctly declined to consider them. A100, ¶ 62; *see People v. Cline*, 2022 IL 126383, ¶¶ 32-33; *Vulcan Materials Co. v. Bee Const.*, 96 Ill. 2d 159, 166 (1983); *People v. Kuehner*, 2022 IL App (4th) 200325, ¶ 124-31. In any event, the research studies do not render his school disciplinary records inherently unreliable. According to defendant, the studies show that black students are disciplined more often and more harshly than their white peers. Def. Br. 37-39. But it is the underlying *behavior* that is relevant to defendant's background, character, and rehabilitative potential, not the discipline imposed. *See supra* § II.B.2.b.i. And any arguments that particular disciplinary measures were too harsh or unwarranted for the underlying conduct due to alleged racial disparities, *see, e.g.*, Def. Br. 37, again go to weight, not admissibility.

Plea counsel therefore reasonably declined to raise a meritless hearsay objection to the school records. But even if the objection were not meritless, counsel could make a reasonable strategic choice "not to object and require live witness testimony" of defendant's behavioral issues, which would have drawn further attention to the evidence and allowed witnesses to expand on the specific incidents. *People v. Tinsley*, 2022 IL App (5th) 190536-U, ¶ 49.

In sum, as defendant conceded, R263-64, and the trial court recognized, R264, the law is settled that a court may consider a defendant's school disciplinary records at sentencing, so plea counsel could reasonably decline to object to consideration of defendants' records here.

c. Defendant's school disciplinary records also refuted his mitigation evidence.

The trial court could properly consider the school records on the independent ground that they refuted defendant's mitigation evidence. Defendant told the probation officer that "he did not have problems throughout school." C387. Defendant wanted his mother to testify at the sentencing hearing, R147, and she testified that defendant was a "good kid" who never "got in trouble before this incident," R140, and had no prior "scrapes with the law," R150. That is, defendant presented evidence portraying himself as a well-behaved student with a good character. *See* 730 ILCS 5/5-5-3.1(a)(9) (listing as mitigating factor that "[t]he character and attitudes of the defendant indicate that he is unlikely to commit another crime").

But defendant's school disciplinary records rebutted this portrayal, so they were admissible for that purpose regardless of any other basis that supported their admissibility. *People v. Turner*, 29 Ill. 2d 379, 383 (1963) (police reports inadmissible at trial as substantive evidence may be admitted for impeachment); *People v. Strausberger*, 151 Ill. App. 3d 832, 834 (2d Dist. 1987) (same); *Pecoraro v. Walls*, 286 F.3d 439, 444 (7th Cir. 2002) ("a

document doesn't have to be admissible as substantive evidence in order to be used for purposes merely of impeaching a witness") (citing *In re Estate of Rennick*, 181 Ill. 2d 395 (1998)); see also *Wong v. Belmontes*, 558 U.S. 15, 18-19, 22 (2009) (defendant may present evidence at capital sentencing hearing that triggers admission on rebuttal of previously excluded evidence of defendant's violent character). Indeed, the probation officer included defendant's disciplinary records in the PSI for the express purpose of rebutting defendant's statement. See C387. And the trial court referred to the record as showing a "very different" side of defendant than that presented by his family members. R166-67. Defendant's school behavior was thus relevant and admissible to refute his proffered mitigating character evidence. See *People v. Tross*, 281 Ill. App. 3d 146, 152 (2d Dist. 1996) (evidence may be considered to "refute factors considered in mitigation"). Accordingly, plea counsel could reasonably decline to object for this reason, too.

B. Defendant was not prejudiced by plea counsel's decision.

Defendant also fails to show prejudice. Had plea counsel objected to consideration of defendant's school disciplinary records, there is no reasonable probability that defendant's sentence would have been less than 28 years. See *Strickland*, 466 U.S. at 694. To start, as discussed, *supra* § II.A, an objection would have been meritless, so plea counsel's decision not to raise it was not prejudicial. See *Webb*, 2023 IL 128957, ¶ 33.

Moreover, even had the court declined to consider the record, there is no reasonable probability of a different sentence. The trial court made clear

that it based its sentence primarily on the nature and circumstances of defendant's "terrible" crime. R168. Specifically, defendant was the "leader" in the hijacking, held a gun to his 67-year-old neighbor's face, and then hid the gun and tried to evade arrest. R162-63, 168-71. Further, defendant accepted no responsibility for his actions in terrifying Hall and stealing her car and showed no remorse, instead displaying a cavalier attitude toward the proceedings. R161-64, 170. The offense was also defendant's fourth by the age of 19, his third as an adult, and he committed it while on probation for domestic battery against the mother of one of his children. C386-87; R171. To the extent the school records of defendant's fighting and insubordination provided any information about his present violence or defiance, they were cumulative to the evidence that he had fought with another inmate while in pretrial custody, C390, and to his own conduct at sentencing, R153-55, 171.

The record belies defendant's argument that the trial court placed significant weight on his school disciplinary records. Def. Br. 18-22. Of the court's nearly 12-page explanation, R160-71, the court discussed defendant's disciplinary record for, at most, a page and a half, R166-67. And, like the PSI, the court merely noted that the record refuted the statements of defendant's family members that he never been in trouble before, R166; *see supra* § II.A.2.c, and cited two examples from the record to support that finding: one from October 2018 (when defendant was a month shy of his 17th

birthday) and another from March 2019 (when he was 17 years old), R167; A62, 68.

In short, the trial court sentenced defendant to 28 years based on the seriousness of his offense and his history of violating laws and probation conditions, and not on the fact that he also had gotten in trouble in school. Therefore, defendant cannot show prejudice.

Perhaps recognizing that the trial court placed little, if any, weight on the school records in determining his sentence, defendant highlights the court's remarks at the first motion to reconsider hearing. Def. Br. 36. But that hearing "is a nullity[,] as it was tainted by the failure to follow the [Rule 604(d)] certification procedure," and defendant cannot "rel[y] on matters determined in the prior hearing on the Rule 604(d) motion." *People v. Porter*, 258 Ill. App. 3d 200, 203-04 (2d Dist. 1994).

Even setting that aside, at that hearing, the trial court reaffirmed that defendant received a 28-year sentence based on the seriousness of his offense, his role in the offense — "he had the gun" and was Hall's neighbor — and his failure to accept responsibility for even being involved. R177-79, 183, 193-95. Only after reiterating these grounds for the sentence did the court cite some entries from the disciplinary records, which the court explained provided insight into defendant's life and character. R195-97. But the court again returned to the seriousness of defendant's offense and his failure to take responsibility before denying the motion. R197-98. And in its written order,

the court reaffirmed that defendant's sentence was based upon the reasons stated at sentencing. C242.

Thus, even the reconsideration record does not establish that the trial court placed significant weight on the disciplinary records. To the contrary, the court repeatedly reiterated — as it had at sentencing — that it sentenced defendant to 28 years (rather Monroe's 24 years) because defendant's crime was serious, he was the leader, he had the gun, and he failed to take responsibility for his actions. Defendant therefore fails to show a reasonable probability that had the disciplinary records been excluded, he would have received a lesser sentence.

CONCLUSION

This Court should affirm the judgment of the appellate court.

April 10, 2026

Respectfully submitted,

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RULE 341(c) CERTIFICATE OF COMPLIANCE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 14,575 words.

/s/ Gopi Kashyap
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On April 10, 2026, the **Brief of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, which provided notice to the following registered email addresses:

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